

MINUTES OF PROCEEDINGS - Status Conference held on 10/7/2010 before Magistrate Judge Peggy A. Leen. Crtrm Administrator: **Jeff Miller**; Pla Counsel: **Glen Hallman, Esq.**; Def Counsel: **Marvin Simeon, Esq., James McNulty, Pro Se**; Court Reporter/FTR #: **9:29:34 - 10:13:56**; Time of Hearing: **9:30am**; Courtroom: **3B**;

The Court reminds the parties that she had previously ordered Joint Status Reports to be filed, to both reduce the amount of motions and briefing on the docket and to facilitate dialogue between the parties. The Court instructs the parties to cease and desist their continued motions practices and to file Joint Status Reports as ordered. The Court also reminds parties that our Local Rules require that they meet and confer in good faith before filing requests for relief with the Court.

IT IS ORDERED: Plaintiffs' Motion to Compel [115] and Plaintiffs' Motion for Order to Show Cause [124] are deemed WITHDRAWN/TERMINATED pursuant to Notice [142].

The Court and the parties next address the proposed form of protective order. After hearing representations from all parties, **IT IS ORDERED:** The Court will enter, via separate written order, a protective order which adopts the stipulated form of proposed protective order with the exception of the portion that restricts Defendant McNulty from having access to documents marked as "confidential/attorney's eyes only", which will be stricken from the Court's Order. The Court strongly cautions Defendant McNulty that he shall not use the documents marked as "confidential/attorney's eyes only" for any purpose unrelated to this litigation or violate the conditions of the protective order, he will be subject to harsh sanctions.

The Court next addresses Plaintiffs' Counsel concerning the documents his clients were directed to produce at the last scheduled Status Hearing on a rolling basis. Plaintiffs' Counsel represents that thousands of documents have been produced and another wave of production is being diligently worked on. Plaintiffs' Counsel further represents that the remaining production will be completed by the next scheduled Status Hearing. **IT IS ORDERED:** The Court directs Counsel to inform the Plaintiffs that it is extraordinarily disappointed in their failure to complete the production in the timeline that was provided, and if the production is not completed, with privilege logs, **within the next 30 days**, they can expect sanctions.

The Court next hears the arguments of the parties concerning Plaintiffs' Motion for Ruling Re: Waiver of Privilege...[118]. The Court clarifies with Mr. Simeon, Counsel for Defendants Stinger Systems and Robert Gruder, that they intended to produce every document, including documents containing communication between parties in the Arizona litigation as well as press releases related to this action, produced to Plaintiffs' Counsel and did not prepare a privilege log or withhold any documents on the basis of privilege. Mr. Simeon further asserts that his clients reserve the right to object on the basis of relevance should Plaintiffs wish to use a specific portion of that production at the time of trial. **IT IS ORDERED:** Plaintiffs' Motion for Ruling Re: Waiver of Privilege...[118] is GRANTED to the extent that the clarification of Defense Counsel has been made on the record.

hears from Plaintiffs' Counsel, who requests that this matter be continued to the next scheduled Status Conference to afford the parties a chance to meet and confer and draft a Proposed Discovery Plan and Scheduling Order. The Court also hears representation from Mr. Simeon, Counsel for Defendants Stinger Systems and Robert Gruder, and from Plaintiffs' Counsel concerning a Request for Production of Documents which Plaintiffs have not complied with but were also not properly served with and were unaware of it until recent motions practice. Defendant McNulty states that Plaintiffs' Counsel still must produce a damages report from the Phoenix, Arizona litigation that he had requested. **The Court directs Plaintiffs' Counsel to produce the damages report to Mr. McNulty by no later than close of business on 10/08/2010.**

The Court again admonishes the parties that they are doing themselves a disservice by not communicating with each other, and it is building unnecessary delay into this action. **IT IS ORDERED:** The parties shall file a **comprehensive** Joint Status Report by 11/05/2010, which addresses the following: the exact status of the parties' document productions and their review of the document productions, what resources they are devoting to producing and reviewing document that the opposing parties have produced and how much time they will need to complete that, how many depositions the parties need to do in order to complete discovery on the primary claims and defenses, and any proposed schedule for completing discovery, including expert reports. Competing proposals shall still be included in the same Joint Status Report if the parties disagree. Additionally, the parties shall comprehensively address Defendant McNulty's claims of an attorney/client privilege on documents being produced. The Court will review and issue a ruling from the bench at the next scheduled Status Hearing.</P>

Plaintiffs' Counsel makes an Oral Motion for a Gag Order Concerning Press Releases in this action. The Court DENIES the request as overbroad, but informs the parties that it takes a very dim view on the parties attempting to influence or litigate this case outside the courtroom by releasing inflammatory statements to the press or public.

Finally, The Court strongly advises Defense Counsel and Defendant McNulty that the Rules of Professional Responsibility dictate that documents prepared filed with the Court should bear the signature of the party preparing said documents and the work product should be their own. The Court will not inquire further as to whether Defendant McNulty is ghost writing documents for Defense Counsel, but informs them that if they are engaging in that process to cease at once.

Status Conference set for 11/09/2010 @ 9:30am in Courtroom #3B before Peggy A. Leen, U.S. Magistrate Judge.